

107TH CONGRESS  
1ST SESSION

# S. 9

To amend the Internal Revenue Code of 1986 to provide tax relief, and  
for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 22, 2001

Mr. DASCHLE (for himself, Mr. BAUCUS, Mr. DORGAN, Mr. REID, Mr. DURBIN, Mr. ROCKEFELLER, Mrs. CLINTON, Mr. KERRY, Mr. SCHUMER, Mr. DODD, and Mr. CONRAD) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide  
tax relief, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE; ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Working Family Tax Relief Act of 2001”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-  
7 wise expressly provided, whenever in this Act an amend-  
8 ment or repeal is expressed in terms of an amendment  
9 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-  
 2 sion of the Internal Revenue Code of 1986.

3 (c) TABLE OF CONTENTS.—The table of contents for  
 4 this Act is as follows:

Sec. 1. Short title; etc.

#### TITLE I—MARRIAGE PENALTY TAX RELIEF

Sec. 101. Optional separate calculations.

#### TITLE II—ESTATE TAX RELIEF

Sec. 201. Increase in amount of unified credit against estate and gift taxes.

Sec. 202. Increase in qualified family-owned business interest deduction amount.

#### TITLE III—TAX RELIEF FOR AFFORDABLE HIGHER EDUCATION

Sec. 301. Deduction for higher education expenses.

#### TITLE IV—TAX RELIEF FOR FAMILY CHOICES IN CHILD CARE

##### Subtitle A—Dependent Care Tax Credit

Sec. 401. Expanding the dependent care tax credit.

Sec. 402. Minimum credit allowed for stay-at-home parents.

Sec. 403. Credit made refundable.

##### Subtitle B—Incentives for Employer-Provided Child Care

Sec. 411. Allowance of credit for employer expenses for child care assistance.

#### TITLE V—TAX RELIEF FOR LONG-TERM CARE GIVERS

Sec. 501. Long-term care tax credit.

#### TITLE VI—TAX RELIEF FOR WORKING FAMILIES

Sec. 601. Increased earned income tax credit for 2 or more qualifying children.

Sec. 602. Simplification of definition of earned income.

Sec. 603. Simplification of definition of child dependent.

Sec. 604. Other modifications to earned income tax credit.

#### TITLE VII—TAX RELIEF FOR SELF-EMPLOYED INDIVIDUALS

Sec. 701. Deduction for health insurance costs of self-employed individuals increased.

#### TITLE VIII—TAX RELIEF FOR EXPANDING PENSION AVAILABILITY

Sec. 801. Nonrefundable credit to certain individuals for elective deferrals and IRA contributions.

Sec. 802. Credit for qualified pension plan contributions of small employers.

Sec. 803. Credit for pension plan startup costs of small employers.

## TITLE IX—TAX RELIEF FOR ADOPTIVE PARENTS

Sec. 901. Expansion of adoption credit.

1     **TITLE I—MARRIAGE PENALTY**  
 2                     **TAX RELIEF**

3     **SEC. 101. OPTIONAL SEPARATE CALCULATIONS.**

4             (a) IN GENERAL.—Subpart B of part II of sub-  
 5 chapter A of chapter 61 (relating to income tax returns)  
 6 is amended by inserting after section 6013 the following  
 7 new section:

8     **“SEC. 6013A. COMBINED RETURN WITH SEPARATE RATES.**

9             “(a) GENERAL RULE.—A husband and wife may  
 10 make a combined return of income taxes under subtitle  
 11 A under which—

12             “(1) a separate taxable income is determined  
 13 for each spouse by applying the rules provided in  
 14 this section, and

15             “(2) the tax imposed by section 1 is the aggre-  
 16 gate amount resulting from applying the separate  
 17 rates set forth in section 1(c) to each such taxable  
 18 income.

19             “(b) TREATMENT OF INCOME.—For purposes of this  
 20 section—

21             “(1) earned income (within the meaning of sec-  
 22 tion 911(d)), and any income received as a pension  
 23 or annuity which arises from an employer-employee

1 relationship, shall be treated as the income of the  
2 spouse who rendered the services,

3 “(2) income from property shall be divided be-  
4 tween the spouses in accordance with their respec-  
5 tive ownership rights in such property (equally in  
6 the case of property held jointly by the spouses), and

7 “(3) any exclusion from income shall be allow-  
8 able to the spouse with respect to whom the income  
9 would be otherwise includible.

10 “(c) TREATMENT OF DEDUCTIONS.—For purposes of  
11 this section—

12 “(1) except as otherwise provided in this sub-  
13 section, the deductions described in section 62(a)  
14 shall be allowed to the spouse treated as having the  
15 income to which such deductions relate,

16 “(2) the deductions allowable by section 151(b)  
17 (relating to personal exemptions for taxpayer and  
18 spouse) shall be determined by allocating 1 personal  
19 exemption to each spouse,

20 “(3) section 63 shall be applied as if such  
21 spouses were not married, except that the election  
22 whether or not to itemize deductions shall be made  
23 jointly by both spouses and apply to each, and

1           “(4) each spouse’s share of all other deductions  
2           shall be determined by multiplying the aggregate  
3           amount thereof by the fraction—

4                   “(A) the numerator of which is such  
5                   spouse’s gross income, and

6                   “(B) the denominator of which is the com-  
7                   bined gross incomes of the 2 spouses.

8   Any fraction determined under paragraph (4) shall be  
9   rounded to the nearest percentage point.

10       “(d) TREATMENT OF CREDITS.—For purposes of this  
11   section—

12           “(1) IN GENERAL.—Except as provided in para-  
13           graph (2), each spouse’s share of credits allowed to  
14           both spouses shall be determined by multiplying the  
15           aggregate amount of the credits by the fraction de-  
16           termined under subsection (c)(4).

17           “(2) EARNED INCOME CREDIT.—The earned in-  
18           come credit under section 32 shall be determined as  
19           if each spouse were a separate taxpayer, except  
20           that—

21                   “(A) the earned income and the modified  
22                   adjusted gross income of each spouse shall be  
23                   determined under the rules of subsections (b),  
24                   (c), and (e), and

1           “(B) qualifying children shall be allocated  
 2           between spouses proportionate to the earned in-  
 3           come of each spouse (rounded to the nearest  
 4           whole number).

5           “(e) SPECIAL RULES REGARDING INCOME LIMITA-  
 6 TIONS.—

7           “(1) EXCLUSIONS AND DEDUCTIONS.—For pur-  
 8           poses of making a determination under subsection  
 9           (b) or (c), any eligibility limitation with respect to  
 10          each spouse shall be determined by taking into ac-  
 11          count the limitation applicable to a single individual.

12          “(2) CREDITS.—For purposes of making a de-  
 13          termination under subsection (d)(1), in no event  
 14          shall an eligibility limitation for any credit allowable  
 15          to both spouses be less than twice such limitation  
 16          applicable to a single individual.

17          “(f) SPECIAL RULES FOR ALTERNATIVE MINIMUM  
 18 TAX.—If a husband and wife elect the application of this  
 19 section—

20          “(1) the tax imposed by section 55 shall be  
 21          computed separately for each spouse, and

22          “(2) for purposes of applying section 55—

23                  “(A) the rules under this section for allo-  
 24                  cating items of income, deduction, and credit  
 25                  shall apply, and

1           “(B) the exemption amount for each  
 2 spouse shall be the amount determined under  
 3 section 55(d)(1)(B).

4           “(g) TREATMENT AS JOINT RETURN.—Except as  
 5 otherwise provided in this section or in the regulations  
 6 prescribed hereunder, for purposes of this title (other than  
 7 sections 1 and 63(c)) a combined return under this section  
 8 shall be treated as a joint return.

9           “(h) LIMITATIONS.—

10           “(1) PHASE-IN OF BENEFIT.—

11           “(A) IN GENERAL.—In the case of any  
 12 taxable year beginning before January 1, 2005,  
 13 the tax imposed by section 1 or 55 shall in no  
 14 event be less than the sum of—

15           “(i) the tax determined after the ap-  
 16 plication of this section, plus

17           “(ii) the applicable percentage of the  
 18 excess of—

19           “(I) the tax determined without  
 20 the application of this section, over

21           “(II) the amount determined  
 22 under clause (i).

23           “(B) APPLICABLE PERCENTAGE.—For  
 24 purposes of subparagraph (A), the applicable

1 percentage shall be determined in accordance  
 2 with the following table:

<b>“For taxable years beginning in:</b>	<b>The applicable percentage is:</b>
2003 .....	50
2004 .....	10.

3 “(2) LIMITATION OF BENEFIT BASED ON COM-  
 4 BINED ADJUSTED GROSS INCOME.—With respect to  
 5 spouses electing the treatment of this section for any  
 6 taxable year, the tax under section 1 or 55 shall be  
 7 increased by an amount which bears the same ratio  
 8 to the excess of the tax determined without the ap-  
 9 plication of this section over the tax determined  
 10 after the application of this section as the ratio (but  
 11 not over 100 percent) of the excess of the combined  
 12 adjusted gross income of the spouses over \$100,000  
 13 bears to \$50,000.

14 “(i) REGULATIONS.—The Secretary shall prescribe  
 15 such regulations as may be necessary or appropriate to  
 16 carry out this section.”.

17 (b) UNMARRIED RATE MADE APPLICABLE.—So  
 18 much of subsection (c) of section 1 as precedes the table  
 19 is amended to read as follows:

20 “(c) SEPARATE OR UNMARRIED RETURN RATE.—  
 21 There is hereby imposed on the taxable income of every  
 22 individual (other than a married individual (as defined in  
 23 section 7703) filing a return which is not a combined re-



1 turn under section 6013A, a surviving spouse as defined  
 2 in section 2(a), or a head of household as defined in sec-  
 3 tion 2(b)) a tax determined in accordance with the fol-  
 4 lowing table:”.

5 (c) PENALTY FOR SUBSTANTIAL UNDERSTATEMENT  
 6 OF INCOME FROM PROPERTY.—Section 6662 (relating to  
 7 imposition of accuracy-related penalty) is amended—

8 (1) by adding at the end of subsection (b) the  
 9 following new paragraph:

10 “(6) Any substantial understatement of income  
 11 from property under section 6013A.”, and

12 (2) by adding at the end the following new sub-  
 13 section:

14 “(i) SUBSTANTIAL UNDERSTATEMENT OF INCOME  
 15 FROM PROPERTY UNDER SECTION 6013A.—For pur-  
 16 poses of this section, there is a substantial understatement  
 17 of income from property under section 6013A if—

18 “(1) the spouses electing the treatment of such  
 19 section for any taxable year transfer property from  
 20 1 spouse to the other spouse in such year,

21 “(2) such transfer results in reduced tax liabil-  
 22 ity under such section, and

23 “(3) the significant purpose of such transfer is  
 24 the avoidance or evasion of Federal income tax.”.

1       (d) PROTECTION OF SOCIAL SECURITY AND MEDI-  
2 CARE TRUST FUNDS.—

3           (1) IN GENERAL.—Nothing in this section shall  
4 be construed to alter or amend the Social Security  
5 Act (or any regulation promulgated under that Act).

6           (2) TRANSFERS.—

7           (A) ESTIMATE OF SECRETARY.—The Sec-  
8 retary of the Treasury shall annually estimate  
9 the impact that the enactment of this section  
10 has on the income and balances of the trust  
11 funds established under sections 201 and 1817  
12 of the Social Security Act (42 U.S.C. 401 and  
13 1395i).

14           (B) TRANSFER OF FUNDS.—If, under sub-  
15 paragraph (A), the Secretary of the Treasury  
16 estimates that the enactment of this section has  
17 a negative impact on the income and balances  
18 of such trust funds, the Secretary shall trans-  
19 fer, not less frequently than quarterly, from the  
20 general revenues of the Federal Government an  
21 amount sufficient so as to ensure that the in-  
22 come and balances of such trust funds are not  
23 reduced as a result of the enactment of this sec-  
24 tion.

(e) CLERICAL AMENDMENT.—The table of sections for subpart B of part II of subchapter A of chapter 61 is amended by inserting after the item relating to section 6013 the following new item:

“Sec. 6013A. Combined return with separate rates.”.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

## **TITLE II—ESTATE TAX RELIEF**

### **SEC. 201. INCREASE IN AMOUNT OF UNIFIED CREDIT AGAINST ESTATE AND GIFT TAXES.**

(a) IN GENERAL.—The table contained in section 2010(c) (relating to applicable credit amount) is amended to read as follows:

<b>“In the case of estates of decedents dying, and gifts made, during:</b>	<b>The applicable exclusion amount is:</b>
2002, 2003, 2004, 2005, and 2006 .....	\$1,000,000
2007 and 2008 .....	\$1,125,000
2009 .....	\$1,500,000
2010 or thereafter .....	\$2,000,000.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 2001.

### **SEC. 202. INCREASE IN QUALIFIED FAMILY-OWNED BUSINESS INTEREST DEDUCTION AMOUNT.**

(a) IN GENERAL.—Paragraph (2) of section 2057(a) (relating to family-owned business interests) is amended to read as follows:

1 “(2) MAXIMUM DEDUCTION.—

2 “(A) IN GENERAL.—The deduction allowed  
3 by this section shall not exceed the sum of—

4 “(i) the applicable deduction amount,  
5 plus

6 “(ii) in the case of a decedent de-  
7 scribed in subparagraph (C), the applicable  
8 unused spousal deduction amount.

9 “(B) APPLICABLE DEDUCTION AMOUNT.—  
10 For purposes of this subparagraph (A)(i), the  
11 applicable deduction amount is determined in  
12 accordance with the following table:

<b>“In the case of estates of decedents dying during:</b>	<b>The applicable deduction amount is:</b>
2002, 2003, 2004, 2005, and 2006 .....	\$1,375,000
2007 and 2008 .....	\$1,625,000
2009 .....	\$2,375,000
2010 or thereafter .....	\$3,375,000.

13 “(C) APPLICABLE UNUSED SPOUSAL DE-  
14 DEDUCTION AMOUNT.—With respect to a decedent  
15 whose immediately predeceased spouse died  
16 after December 31, 2001, and the estate of  
17 such immediately predeceased spouse met the  
18 requirements of subsection (b)(1), the applica-  
19 ble unused spousal deduction amount for such  
20 decedent is equal to the excess of—

21 “(i) the applicable deduction amount  
22 allowable under this section to the estate

1 of such immediately predeceased spouse,  
 2 over

3 “(ii) the sum of—

4 “(I) the applicable deduction  
 5 amount allowed under this section to  
 6 the estate of such immediately pre-  
 7 deceased spouse, plus

8 “(II) the amount of any increase  
 9 in such estate’s unified credit under  
 10 paragraph (3)(B) which was allowed  
 11 to such estate.”.

12 (b) CONFORMING AMENDMENTS.—Section  
 13 2057(a)(3)(B) is amended—

14 (1) by striking “\$675,000” both places it ap-  
 15 pears and inserting “the applicable deduction  
 16 amount”, and

17 (2) by striking “\$675,000” in the heading and  
 18 inserting “APPLICABLE DEDUCTION AMOUNT”.

19 (c) EFFECTIVE DATE.—The amendment made by  
 20 this section shall apply to the estates of decedents dying,  
 21 and gifts made, after December 31, 2001.

1 **TITLE III—TAX RELIEF FOR AF-**  
 2 **FORDABLE HIGHER EDU-**  
 3 **CATION**

4 **SEC. 301. DEDUCTION FOR HIGHER EDUCATION EXPENSES.**

5 (a) DEDUCTION ALLOWED.—Part VII of subchapter  
 6 B of chapter 1 (relating to additional itemized deductions  
 7 for individuals) is amended by redesignating section 222  
 8 as section 223 and by inserting after section 221 the fol-  
 9 lowing new section:

10 **“SEC. 222. HIGHER EDUCATION EXPENSES.**

11 “(a) ALLOWANCE OF DEDUCTION.—

12 “(1) IN GENERAL.—In the case of an indi-  
 13 vidual, there shall be allowed as a deduction an  
 14 amount equal to the applicable dollar amount of the  
 15 qualified higher education expenses paid by the tax-  
 16 payer during the taxable year.

17 “(2) APPLICABLE DOLLAR AMOUNT.—The ap-  
 18 plicable dollar amount for any taxable year shall be  
 19 determined as follows:

<b>“Taxable year:</b>	<b>Applicable dollar amount:</b>
2002 .....	\$4,000
2003 .....	\$8,000
2004 and thereafter .....	\$12,000.

20 “(b) LIMITATION BASED ON MODIFIED ADJUSTED  
 21 GROSS INCOME.—

22 “(1) IN GENERAL.—The amount which would  
 23 (but for this subsection) be taken into account under

1 subsection (a) shall be reduced (but not below zero)  
2 by the amount determined under paragraph (2).

3 “(2) AMOUNT OF REDUCTION.—The amount  
4 determined under this paragraph equals the amount  
5 which bears the same ratio to the amount which  
6 would be so taken into account as—

7 “(A) the excess of—

8 “(i) the taxpayer’s modified adjusted  
9 gross income for such taxable year, over

10 “(ii) \$62,450 (\$104,050 in the case of  
11 a joint return, \$89,150 in the case of a re-  
12 turn filed by a head of household, and  
13 \$52,025 in the case of a return by a mar-  
14 ried individual filing separately), bears to

15 “(B) \$15,000.

16 “(3) MODIFIED ADJUSTED GROSS INCOME.—  
17 For purposes of this subsection, the term ‘modified  
18 adjusted gross income’ means the adjusted gross in-  
19 come of the taxpayer for the taxable year  
20 determined—

21 “(A) without regard to this section and  
22 sections 911, 931, and 933, and

23 “(B) after the application of sections 86,  
24 135, 219, 220, and 469.

1 For purposes of the sections referred to in subpara-  
 2 graph (B), adjusted gross income shall be deter-  
 3 mined without regard to the deduction allowed under  
 4 this section.

5 “(c) QUALIFIED HIGHER EDUCATION EXPENSES.—  
 6 For purposes of this section—

7 “(1) QUALIFIED HIGHER EDUCATION EX-  
 8 PENSES.—

9 “(A) IN GENERAL.—The term ‘qualified  
 10 higher education expenses’ means tuition and  
 11 fees charged by an educational institution and  
 12 required for the enrollment or attendance of—

13 “(i) the taxpayer,

14 “(ii) the taxpayer’s spouse,

15 “(iii) any dependent of the taxpayer  
 16 with respect to whom the taxpayer is al-  
 17 lowed a deduction under section 151, or

18 “(iv) any grandchild of the taxpayer,  
 19 as an eligible student at an institution of higher  
 20 education.

21 “(B) ELIGIBLE COURSES.—Amounts paid  
 22 for qualified higher education expenses of any  
 23 individual shall be taken into account under  
 24 subsection (a) only to the extent such  
 25 expenses—



1 “(i) are attributable to courses of in-  
 2 struction for which credit is allowed toward  
 3 a baccalaureate degree by an institution of  
 4 higher education or toward a certificate of  
 5 required course work at a vocational  
 6 school, and

7 “(ii) are not attributable to any grad-  
 8 uate program of such individual.

9 “(C) EXCEPTION FOR NONACADEMIC  
 10 FEES.—Such term does not include any student  
 11 activity fees, athletic fees, insurance expenses,  
 12 or other expenses unrelated to a student’s aca-  
 13 demic course of instruction.

14 “(D) ELIGIBLE STUDENT.—For purposes  
 15 of subparagraph (A), the term ‘eligible student’  
 16 means a student who—

17 “(i) meets the requirements of section  
 18 484(a)(1) of the Higher Education Act of  
 19 1965 (20 U.S.C. 1091(a)(1)), as in effect  
 20 on the date of the enactment of this sec-  
 21 tion, and

22 “(ii) is carrying at least one-half the  
 23 normal full-time work load for the course  
 24 of study the student is pursuing, as deter-

1           mined by the institution of higher edu-  
2           cation.

3           “(E) IDENTIFICATION REQUIREMENT.—No  
4           deduction shall be allowed under subsection (a)  
5           to a taxpayer with respect to an eligible student  
6           unless the taxpayer includes the name, age, and  
7           taxpayer identification number of such eligible  
8           student on the return of tax for the taxable  
9           year.

10          “(2) INSTITUTION OF HIGHER EDUCATION.—  
11          The term ‘institution of higher education’ means an  
12          institution which—

13               “(A) is described in section 481 of the  
14               Higher Education Act of 1965 (20 U.S.C.  
15               1088), as in effect on the date of the enactment  
16               of this section, and

17               “(B) is eligible to participate in programs  
18               under title IV of such Act.

19          “(d) SPECIAL RULES.—

20               “(1) NO DOUBLE BENEFIT.—

21               “(A) IN GENERAL.—No deduction shall be  
22               allowed under subsection (a) for any expense  
23               for which a deduction is allowable to the tax-  
24               payer under any other provision of this chapter  
25               unless the taxpayer irrevocably waives his right

1 to the deduction of such expense under such  
 2 other provision.

3 “(B) DENIAL OF DEDUCTION IF CREDIT  
 4 ELECTED.—No deduction shall be allowed  
 5 under subsection (a) for a taxable year with re-  
 6 spect to the qualified higher education expenses  
 7 of an individual if the taxpayer elects to have  
 8 section 25A apply with respect to such indi-  
 9 vidual for such year.

10 “(C) DEPENDENTS.—No deduction shall  
 11 be allowed under subsection (a) to any indi-  
 12 vidual with respect to whom a deduction under  
 13 section 151 is allowable to another taxpayer for  
 14 a taxable year beginning in the calendar year in  
 15 which such individual’s taxable year begins.

16 “(D) COORDINATION WITH EXCLUSIONS.—  
 17 A deduction shall be allowed under subsection  
 18 (a) for qualified higher education expenses only  
 19 to the extent the amount of such expenses ex-  
 20 ceeds the amount excludable under section 135  
 21 or 530(d)(2) for the taxable year.

22 “(2) LIMITATION ON TAXABLE YEAR OF DE-  
 23 Duction.—

24 “(A) IN GENERAL.—A deduction shall be  
 25 allowed under subsection (a) for qualified high-

er education expenses for any taxable year only to the extent such expenses are in connection with enrollment at an institution of higher education during the taxable year.

“(B) CERTAIN PREPAYMENTS ALLOWED.—Subparagraph (A) shall not apply to qualified higher education expenses paid during a taxable year if such expenses are in connection with an academic term beginning during such taxable year or during the first 3 months of the next taxable year.

“(3) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS AND VETERANS BENEFITS.—The amount of qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced (before the application of subsection (b)) by the sum of the amounts received with respect to such individual for the taxable year as—

“(A) a qualified scholarship which under section 117 is not includable in gross income,

“(B) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or

1           “(C) a payment (other than a gift, be-  
2           quest, devise, or inheritance within the meaning  
3           of section 102(a)) for educational expenses, or  
4           attributable to enrollment at an eligible edu-  
5           cational institution, which is exempt from in-  
6           come taxation by any law of the United States.

7           “(4) NO DEDUCTION FOR MARRIED INDIVID-  
8           UALS FILING SEPARATE RETURNS.—If the taxpayer  
9           is a married individual (within the meaning of sec-  
10          tion 7703), this section shall apply only if the tax-  
11          payer and the taxpayer’s spouse file a joint return  
12          for the taxable year.

13          “(5) NONRESIDENT ALIENS.—If the taxpayer is  
14          a nonresident alien individual for any portion of the  
15          taxable year, this section shall apply only if such in-  
16          dividual is treated as a resident alien of the United  
17          States for purposes of this chapter by reason of an  
18          election under subsection (g) or (h) of section 6013.

19          “(6) REGULATIONS.—The Secretary may pre-  
20          scribe such regulations as may be necessary or ap-  
21          propriate to carry out this section, including regula-  
22          tions requiring recordkeeping and information re-  
23          porting.”.

1 (b) DEDUCTION ALLOWED IN COMPUTING AD-  
 2 JUSTED GROSS INCOME.—Section 62(a) is amended by in-  
 3 serting after paragraph (17) the following new paragraph:

4 “(18) HIGHER EDUCATION EXPENSES.—The  
 5 deduction allowed by section 222.”.

6 (c) CONFORMING AMENDMENT.—The table of sec-  
 7 tions for part VII of subchapter B of chapter 1 is amended  
 8 by striking the item relating to section 222 and inserting  
 9 the following new items:

“Sec. 222. Higher education expenses.  
 “Sec. 223. Cross reference.”.

10 (d) EFFECTIVE DATE.—The amendments made by  
 11 this section shall apply to payments made in taxable years  
 12 beginning after December 31, 2001.

13 **TITLE IV—TAX RELIEF FOR FAM-**  
 14 **ILY CHOICES IN CHILD CARE**  
 15 **Subtitle A—Dependent Care Tax**  
 16 **Credit**

17 **SEC. 401. EXPANDING THE DEPENDENT CARE TAX CREDIT.**

18 (a) PERCENTAGE OF EMPLOYMENT-RELATED EX-  
 19 PENSES DETERMINED BY TAXPAYER STATUS.—Section  
 20 21(a)(2) (defining applicable percentage) is amended to  
 21 read as follows:

22 “(2) APPLICABLE PERCENTAGE DEFINED.—For  
 23 purposes of paragraph (1), the term ‘applicable per-  
 24 centage’ means—

1           “(A) except as provided in subparagraph  
 2           (B), 50 percent reduced (but not below 20 per-  
 3           cent) by 1 percentage point for each \$1,000, or  
 4           fraction thereof, by which the taxpayers’s ad-  
 5           justed gross income for the taxable year exceeds  
 6           \$30,000, and

7           “(B) in the case of employment-related ex-  
 8           penses described in subsection (e)(11), 50 per-  
 9           cent reduced (but not below zero) by 1 percent-  
 10          age point for each \$800, or fraction thereof, by  
 11          which the taxpayers’s adjusted gross income for  
 12          the taxable year exceeds \$30,000.”.

13          (b) INFLATION ADJUSTMENT FOR ALLOWABLE EX-  
 14          PENSES.—Section 21(c) (relating to dollar limit on  
 15          amount creditable) is amended by striking “The amount  
 16          determined” and inserting “In the case of any taxable  
 17          year beginning after 2002, each dollar amount referred  
 18          to in paragraphs (1) and (2) shall be increased by an  
 19          amount equal to such dollar amount multiplied by the  
 20          cost-of-living adjustment determined under section 1(f)(3)  
 21          for the calendar year in which the taxable year begins,  
 22          by substituting ‘calendar year 2001’ for ‘calendar year  
 23          1992’ in subparagraph (B) thereof. If any dollar amount  
 24          after being increased under the preceding sentence is not

1 a multiple of \$10, such dollar amount shall be rounded  
2 to the nearest multiple of \$10. The amount determined”.

3 (c) EFFECTIVE DATE.—The amendments made by  
4 this section apply to taxable years beginning after Decem-  
5 ber 31, 2001.

6 **SEC. 402. MINIMUM CREDIT ALLOWED FOR STAY-AT-HOME**  
7 **PARENTS.**

8 (a) IN GENERAL.—Section 21(e) (relating to special  
9 rules) is amended by adding at the end the following new  
10 paragraph:

11 “(11) MINIMUM CREDIT ALLOWED FOR STAY-  
12 AT-HOME PARENTS.—Notwithstanding subsection  
13 (d), in the case of any taxpayer with one or more  
14 qualifying individuals described in subsection  
15 (b)(1)(A) under the age of 1 at any time during the  
16 taxable year, such taxpayer shall be deemed to have  
17 employment-related expenses with respect to such  
18 qualifying individuals in an amount equal to the sum  
19 of—

20 “(A) \$90 for each month in such taxable  
21 year during which at least one of such quali-  
22 fying individuals is under the age of 1, and

23 “(B) the amount of employment-related ex-  
24 penses otherwise incurred for such qualifying  
25 individuals for the taxable year (determined



1 under this section without regard to this para-  
 2 graph).”.

3 (b) EFFECTIVE DATE.—The amendments made by  
 4 this section apply to taxable years beginning after Decem-  
 5 ber 31, 2001.

6 **SEC. 403. CREDIT MADE REFUNDABLE.**

7 (a) IN GENERAL.—Part IV of subchapter A of chap-  
 8 ter 1 (relating to credits against tax) is amended—

9 (1) by redesignating section 35 as section 36,  
 10 and

11 (2) by redesignating section 21 as section 35.

12 (b) ADVANCE PAYMENT OF CREDIT.—Chapter 25  
 13 (relating to general provisions relating to employment  
 14 taxes) is amended by inserting after section 3507 the fol-  
 15 lowing new section:

16 **“SEC. 3507A. ADVANCE PAYMENT OF DEPENDENT CARE**  
 17 **CREDIT.**

18 “(a) GENERAL RULE.—Except as otherwise provided  
 19 in this section, every employer making payment of wages  
 20 with respect to whom a dependent care eligibility certifi-  
 21 cate is in effect shall, at the time of paying such wages,  
 22 make an additional payment equal to such employee’s de-  
 23 pendent care advance amount.

24 “(b) DEPENDENT CARE ELIGIBILITY CERTIFI-  
 25 CATE.—For purposes of this title, a dependent care eligi-

1 bility certificate is a statement furnished by an employee  
 2 to the employer which—

3 “(1) certifies that the employee will be eligible  
 4 to receive the credit provided by section 35 for the  
 5 taxable year,

6 “(2) certifies that the employee reasonably ex-  
 7 pects to be an applicable taxpayer for the taxable  
 8 year,

9 “(3) certifies that the employee does not have  
 10 a dependent care eligibility certificate in effect for  
 11 the calendar year with respect to the payment of  
 12 wages by another employer,

13 “(4) states whether or not the employee’s  
 14 spouse has a dependent care eligibility certificate in  
 15 effect,

16 “(5) states the number of qualifying individuals  
 17 in the household maintained by the employee, and

18 “(6) estimates the amount of employment-re-  
 19 lated expenses for the calendar year.

20 “(c) DEPENDENT CARE ADVANCE AMOUNT.—

21 “(1) IN GENERAL.—For purposes of this title,  
 22 the term ‘dependent care advance amount’ means,  
 23 with respect to any payroll period, the amount  
 24 determined—

1           “(A) on the basis of the employee’s wages  
2           from the employer for such period,

3           “(B) on the basis of the employee’s esti-  
4           mated employment-related expenses included in  
5           the dependent care eligibility certificate, and

6           “(C) in accordance with tables provided by  
7           the Secretary.

8           “(2) ADVANCE AMOUNT TABLES.—The tables  
9           referred to in paragraph (1)(C) shall be similar in  
10          form to the tables prescribed under section 3402  
11          and, to the maximum extent feasible, shall be coordi-  
12          nated with such tables and the tables prescribed  
13          under section 3507(c).

14          “(d) OTHER RULES.—For purposes of this section,  
15          rules similar to the rules of subsections (d) and (e) of sec-  
16          tion 3507 shall apply.

17          “(e) DEFINITIONS.—For purposes of this section,  
18          terms used in this section which are defined in section 35  
19          shall have the respective meanings given such terms by  
20          section 35.”.

21          (c) CONFORMING AMENDMENTS.—

22                 (1) Section 35(a)(1), as redesignated by sub-  
23                 section (a)(1), is amended by striking “chapter” and  
24                 inserting “subtitle”.

(2) Section 35(e), as so redesignated and amended by section 402(a), is amended by adding at the end the following new paragraph:

“(12) COORDINATION WITH ADVANCE PAYMENTS AND MINIMUM TAX.—Rules similar to the rules of subsections (g) and (h) of section 32 shall apply for purposes of this section.”.

(3) Sections 23(f)(1) and 129(a)(2)(C) are each amended by striking “section 21(e)” and inserting “section 35(e)”.

(4) Section 129(b)(2) is amended by striking “section 21(d)(2)” and inserting “section 35(d)(2)”.

(5) Section 129(e)(1) is amended by striking “section 21(b)(2)” and inserting “section 35(b)(2)”.

(6) Section 213(e) is amended by striking “section 21” and inserting “section 35”.

(7) Section 995(f)(2)(C) is amended by striking “and 34” and inserting “34, and 35”.

(8) Section 6211(b)(4)(A) is amended by striking “and 34” and inserting “, 34, and 35”.

(9) Section 6213(g)(2)(H) is amended by striking “section 21” and inserting “section 35”.

(10) Section 6213(g)(2)(L) is amended by striking “section 21, 24, or 32” and inserting “section 24, 32, or 35”.

1 (11) The table of sections for subpart C of part  
 2 IV of subchapter A of chapter 1 is amended by  
 3 striking the item relating to section 35 and inserting  
 4 the following new items:

“Sec. 35. Expenses for household and dependent care services  
 necessary for gainful employment.

“Sec. 36. Overpayments of tax.”.

5 (12) The table of sections for subpart A of such  
 6 part IV is amended by striking the item relating to  
 7 section 21.

8 (13) The table of sections for chapter 25 is  
 9 amended by adding after the item relating to section  
 10 3507 the following new item:

“Sec. 3507A. Advance payment of dependent care credit.”.

11 (14) Section 1324(b)(2) of title 31, United  
 12 States Code, is amended by striking “or” before  
 13 “enacted” and by inserting before the period at the  
 14 end “, or from section 35 of such Code”.

15 (d) EFFECTIVE DATE.—The amendments made by  
 16 this section apply to taxable years beginning after Decem-  
 17 ber 31, 2001.

## 18 **Subtitle B—Incentives for** 19 **Employer-Provided Child Care**

### 20 **SEC. 411. ALLOWANCE OF CREDIT FOR EMPLOYER EX-** 21 **PENSES FOR CHILD CARE ASSISTANCE.**

22 (a) IN GENERAL.—Subpart D of part IV of sub-  
 23 chapter A of chapter 1 (relating to business related cred-

1 its) is amended by adding at the end the following new  
 2 section:

3 **“SEC. 45E. EMPLOYER-PROVIDED CHILD CARE CREDIT.**

4 “(a) IN GENERAL.—For purposes of section 38, the  
 5 employer-provided child care credit determined under this  
 6 section for the taxable year is an amount equal to the sum  
 7 of—

8 “(1) 25 percent of the qualified child care ex-  
 9 penditures, and

10 “(2) 10 percent of the qualified child care re-  
 11 source and referral expenditures,  
 12 of the taxpayer for such taxable year.

13 “(b) DOLLAR LIMITATION.—The credit allowable  
 14 under subsection (a) for any taxable year shall not exceed  
 15 \$150,000.

16 “(c) DEFINITIONS.—For purposes of this section—

17 “(1) QUALIFIED CHILD CARE EXPENDITURE.—

18 “(A) IN GENERAL.—The term ‘qualified  
 19 child care expenditure’ means any amount paid  
 20 or incurred—

21 “(i) to acquire, construct, rehabilitate,  
 22 or expand property—

23 “(I) which is to be used as part  
 24 of a qualified child care facility of the  
 25 taxpayer,

1 “(II) with respect to which a de-  
2 duction for depreciation (or amortiza-  
3 tion in lieu of depreciation) is allow-  
4 able, and

5 “(III) which does not constitute  
6 part of the principal residence (within  
7 the meaning of section 121) of the  
8 taxpayer or any employee of the tax-  
9 payer,

10 “(ii) for the operating costs of a quali-  
11 fied child care facility of the taxpayer, in-  
12 cluding costs related to the training of em-  
13 ployees, to scholarship programs, and to  
14 the providing of increased compensation to  
15 employees with higher levels of child care  
16 training,

17 “(iii) under a contract with a qualified  
18 child care facility to provide child care  
19 services to employees of the taxpayer, or

20 “(iv) to reimburse an employee for ex-  
21 penses for child care which enables the em-  
22 ployee to be gainfully employed including  
23 expenses related to—

24 “(I) day care and before and  
25 after school care,

1 “(II) transportation associated  
2 with such care, and

3 “(III) before and after school  
4 and holiday programs including edu-  
5 cational and recreational programs  
6 and camp programs.

7 “(B) FAIR MARKET VALUE.—The term  
8 ‘qualified child care expenditures’ shall not in-  
9 clude expenses in excess of the fair market  
10 value of such care.

11 “(2) QUALIFIED CHILD CARE FACILITY.—

12 “(A) IN GENERAL.—The term ‘qualified  
13 child care facility’ means a facility—

14 “(i) the principal use of which is to  
15 provide child care assistance, and

16 “(ii) which meets the requirements of  
17 all applicable laws and regulations of the  
18 State or local government in which it is lo-  
19 cated, including the licensing of the facility  
20 as a child care facility.

21 Clause (i) shall not apply to a facility which is  
22 the principal residence (within the meaning of  
23 section 121) of the operator of the facility.

24 “(B) SPECIAL RULES WITH RESPECT TO A  
25 TAXPAYER.—A facility shall not be treated as a



1 qualified child care facility with respect to a  
 2 taxpayer unless—

3 “(i) enrollment in the facility is open  
 4 to employees of the taxpayer during the  
 5 taxable year,

6 “(ii) if the facility is the principal  
 7 trade or business of the taxpayer, at least  
 8 30 percent of the enrollees of such facility  
 9 are dependents of employees of the tax-  
 10 payer, and

11 “(iii) the use of such facility (or the  
 12 eligibility to use such facility) does not dis-  
 13 criminate in favor of employees of the tax-  
 14 payer who are highly compensated employ-  
 15 ees (within the meaning of section 414(q)).

16 “(3) QUALIFIED CHILD CARE RESOURCE AND  
 17 REFERRAL EXPENDITURE.—The term ‘qualified  
 18 child care resource and referral expenditure’ means  
 19 any amount paid or incurred under a contract to  
 20 provide child care resource and referral services to  
 21 an employee of the taxpayer.

22 “(d) RECAPTURE OF ACQUISITION AND CONSTRUC-  
 23 TION CREDIT.—

24 “(1) IN GENERAL.—If, as of the close of any  
 25 taxable year, there is a recapture event with respect

to any qualified child care facility of the taxpayer,  
 then the tax of the taxpayer under this chapter for  
 such taxable year shall be increased by an amount  
 equal to the product of—

“(A) the applicable recapture percentage,

and

“(B) the aggregate decrease in the credits  
 allowed under section 38 for all prior taxable  
 years which would have resulted if the qualified  
 child care expenditures of the taxpayer de-  
 scribed in subsection (c)(1)(A) with respect to  
 such facility had been zero.

“(2) APPLICABLE RECAPTURE PERCENTAGE.—

“(A) IN GENERAL.—For purposes of this  
 subsection, the applicable recapture percentage  
 shall be determined from the following table:

<b>“If the recapture event occurs in:</b>	<b>The applicable recapture percentage is:</b>
Years 1–3 .....	100
Year 4 .....	85
Year 5 .....	70
Year 6 .....	55
Year 7 .....	40
Year 8 .....	25
Years 9 and 10 .....	10
Years 11 and thereafter .....	0.

“(B) YEARS.—For purposes of subpara-  
 graph (A), year 1 shall begin on the first day  
 of the taxable year in which the qualified child  
 care facility is placed in service by the taxpayer.

1           “(3) RECAPTURE EVENT DEFINED.—For pur-  
 2       poses of this subsection, the term ‘recapture event’  
 3       means—

4           “(A) CESSATION OF OPERATION.—The  
 5       cessation of the operation of the facility as a  
 6       qualified child care facility.

7           “(B) CHANGE IN OWNERSHIP.—

8           “(i) IN GENERAL.—Except as pro-  
 9       vided in clause (ii), the disposition of a  
 10      taxpayer’s interest in a qualified child care  
 11      facility with respect to which the credit de-  
 12      scribed in subsection (a) was allowable.

13          “(ii) AGREEMENT TO ASSUME RECAP-  
 14      TURE LIABILITY.—Clause (i) shall not  
 15      apply if the person acquiring such interest  
 16      in the facility agrees in writing to assume  
 17      the recapture liability of the person dis-  
 18      posing of such interest in effect imme-  
 19      diately before such disposition. In the  
 20      event of such an assumption, the person  
 21      acquiring the interest in the facility shall  
 22      be treated as the taxpayer for purposes of  
 23      assessing any recapture liability (computed  
 24      as if there had been no change in owner-  
 25      ship).

1 “(4) SPECIAL RULES.—

2 “(A) TAX BENEFIT RULE.—The tax for  
3 the taxable year shall be increased under para-  
4 graph (1) only with respect to credits allowed  
5 by reason of this section which were used to re-  
6 duce tax liability. In the case of credits not so  
7 used to reduce tax liability, the carryforwards  
8 and carrybacks under section 39 shall be appro-  
9 priately adjusted.

10 “(B) NO CREDITS AGAINST TAX.—Any in-  
11 crease in tax under this subsection shall not be  
12 treated as a tax imposed by this chapter for  
13 purposes of determining the amount of any  
14 credit under subpart A, B, or D of this part.

15 “(C) NO RECAPTURE BY REASON OF CAS-  
16 UALTY LOSS.—The increase in tax under this  
17 subsection shall not apply to a cessation of op-  
18 eration of the facility as a qualified child care  
19 facility by reason of a casualty loss to the ex-  
20 tent such loss is restored by reconstruction or  
21 replacement within a reasonable period estab-  
22 lished by the Secretary.

23 “(e) SPECIAL RULES.—For purposes of this  
24 section—

1           “(1) AGGREGATION RULES.—All persons which  
2           are treated as a single employer under subsections  
3           (a) and (b) of section 52 shall be treated as a single  
4           taxpayer.

5           “(2) PASS-THRU IN THE CASE OF ESTATES AND  
6           TRUSTS.—Under regulations prescribed by the Sec-  
7           retary, rules similar to the rules of subsection (d) of  
8           section 52 shall apply.

9           “(3) ALLOCATION IN THE CASE OF PARTNER-  
10          SHIPS.—In the case of partnerships, the credit shall  
11          be allocated among partners under regulations pre-  
12          scribed by the Secretary.

13          “(f) NO DOUBLE BENEFIT.—

14          “(1) REDUCTION IN BASIS.—For purposes of  
15          this subtitle—

16               “(A) IN GENERAL.—If a credit is deter-  
17               mined under this section with respect to any  
18               property by reason of expenditures described in  
19               subsection (c)(1)(A), the basis of such property  
20               shall be reduced by the amount of the credit so  
21               determined.

22               “(B) CERTAIN DISPOSITIONS.—If, during  
23               any taxable year, there is a recapture amount  
24               determined with respect to any property the  
25               basis of which was reduced under subparagraph

1 (A), the basis of such property (immediately be-  
 2 fore the event resulting in such recapture) shall  
 3 be increased by an amount equal to such recap-  
 4 ture amount. For purposes of the preceding  
 5 sentence, the term ‘recapture amount’ means  
 6 any increase in tax (or adjustment in  
 7 carrybacks or carryovers) determined under  
 8 subsection (d).

9 “(2) OTHER DEDUCTIONS AND CREDITS.—No  
 10 deduction or credit shall be allowed under any other  
 11 provision of this chapter with respect to the amount  
 12 of the credit determined under this section.”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) Section 38(b) is amended by striking “plus”  
 15 at the end of paragraph (12), by striking the period  
 16 at the end of paragraph (13) and inserting “, plus”,  
 17 and by adding at the end the following new para-  
 18 graph:

19 “(14) the employer-provided child care credit  
 20 determined under section 45E.”.

21 (2) Subsection (d) of section 39 is amended by  
 22 adding at the end the following new paragraph:

23 “(10) NO CARRYBACK OF EMPLOYER-PROVIDED  
 24 CHILD CARE CREDIT BEFORE JANUARY 1, 2002.—No  
 25 portion of the unused business credit for any taxable

1 year which is attributable to the credit under section  
 2 45E may be carried back to a taxable year ending  
 3 before January 1, 2002.”.

4 (3) Subsection (c) of section 196 is amended by  
 5 striking “and” at the end of paragraph (8), by strik-  
 6 ing the period at the end of paragraph (9) and in-  
 7 serting “, and”, and by adding at the end the fol-  
 8 lowing new paragraph:

9 “(10) the employer-provided child care credit  
 10 determined under section 45E(a).”.

11 (4) The table of sections for subpart D of part  
 12 IV of subchapter A of chapter 1 is amended by add-  
 13 ing at the end the following new item:

“Sec. 45E. Employer-provided child care credit.”.

14 (5) Section 1016(a) is amended by striking  
 15 “and” at the end of paragraph (26), by striking the  
 16 period at the end of paragraph (27) and inserting “,  
 17 and”, and by adding at the end the following new  
 18 paragraph:

19 “(28) in the case of a facility with respect to  
 20 which a credit was allowed under section 45E, to the  
 21 extent provided in section 45E(f)(1).”.

22 (c) EFFECTIVE DATE.—The amendments made by  
 23 this section shall apply to taxable years beginning after  
 24 December 31, 2001.

# **TITLE V—TAX RELIEF FOR LONG-TERM CARE GIVERS**

## **SEC. 501. LONG-TERM CARE TAX CREDIT.**

(a) ALLOWANCE OF CREDIT.—

(1) IN GENERAL.—Section 24(a) (relating to allowance of child tax credit) is amended to read as follows:

“(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

“(1) \$500 multiplied by the number of qualifying children of the taxpayer, plus

“(2) \$3,000 multiplied by the number of applicable individuals with respect to whom the taxpayer is an eligible caregiver for the taxable year.”.

(2) ADDITIONAL CREDIT FOR TAXPAYER WITH 3 OR MORE SEPARATE CREDIT AMOUNTS.—So much of section 24(d) as precedes paragraph (1)(A) thereof is amended to read as follows:

“(d) ADDITIONAL CREDIT FOR TAXPAYERS WITH 3 OR MORE SEPARATE CREDIT AMOUNTS.—

“(1) IN GENERAL.—If the sum of the number of qualifying children of the taxpayer and the number of applicable individuals with respect to which the taxpayer is an eligible caregiver is 3 or more for



1 any taxable year, the aggregate credits allowed  
 2 under subpart C shall be increased by the lesser  
 3 of—”.

4 (3) CONFORMING AMENDMENTS.—

5 (A) The heading for section 32(n) is  
 6 amended by striking “CHILD” and inserting  
 7 “FAMILY CARE”.

8 (B) The heading for section 24 is amended  
 9 to read as follows:

10 **“SEC. 24. FAMILY CARE CREDIT.”.**

11 (C) The table of sections for subpart A of  
 12 part IV of subchapter A of chapter 1 is amend-  
 13 ed by striking the item relating to section 24  
 14 and inserting the following new item:

“Sec. 24. Family care credit.”.

15 (b) DEFINITIONS.—Section 24(c) (defining qualifying  
 16 child) is amended to read as follows:

17 “(c) DEFINITIONS.—For purposes of this section—

18 “(1) QUALIFYING CHILD.—

19 “(A) IN GENERAL.—The term ‘qualifying  
 20 child’ means any individual if—

21 “(i) the taxpayer is allowed a deduc-  
 22 tion under section 151 with respect to such  
 23 individual for the taxable year,

24 “(ii) such individual has not attained  
 25 the age of 17 as of the close of the cal-

endar year in which the taxable year of the taxpayer begins, and

“(iii) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B).

“(B) EXCEPTION FOR CERTAIN NONCITIZENS.—The term ‘qualifying child’ shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows ‘resident of the United States’.

“(2) APPLICABLE INDIVIDUAL.—

“(A) IN GENERAL.—The term ‘applicable individual’ means, with respect to any taxable year, any individual who has been certified, before the due date for filing the return of tax for the taxable year (without extensions), by a physician (as defined in section 1861(r)(1) of the Social Security Act) as being an individual with long-term care needs described in subparagraph (B) for a period—

“(i) which is at least 180 consecutive days, and

“(ii) a portion of which occurs within the taxable year.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the 39½ month period ending on such due date (or such other period as the Secretary prescribes) a physician (as so defined) has certified that such individual meets such requirements.

“(B) INDIVIDUALS WITH LONG-TERM CARE NEEDS.—An individual is described in this subparagraph if the individual meets any of the following requirements:

“(i) The individual is at least 6 years of age and—

“(I) is unable to perform (without substantial assistance from another individual) at least 3 activities of daily living (as defined in section 7702B(c)(2)(B)) due to a loss of functional capacity, or

“(II) requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment and is unable to perform at least 1 activity of daily living (as so defined) or to the

1 extent provided in regulations pre-  
 2 scribed by the Secretary (in consulta-  
 3 tion with the Secretary of Health and  
 4 Human Services), is unable to engage  
 5 in age appropriate activities.

6 “(ii) The individual is at least 2 but  
 7 not 6 years of age and is unable due to a  
 8 loss of functional capacity to perform  
 9 (without substantial assistance from an-  
 10 other individual) at least 2 of the following  
 11 activities: eating, transferring, or mobility.

12 “(iii) The individual is under 2 years  
 13 of age and requires specific durable med-  
 14 ical equipment by reason of a severe health  
 15 condition or requires a skilled practitioner  
 16 trained to address the individual’s condi-  
 17 tion to be available if the individual’s par-  
 18 ents or guardians are absent.

19 “(3) ELIGIBLE CAREGIVER.—

20 “(A) IN GENERAL.—A taxpayer shall be  
 21 treated as an eligible caregiver for any taxable  
 22 year with respect to the following individuals:

23 “(i) The taxpayer.

24 “(ii) The taxpayer’s spouse.

1 “(iii) An individual with respect to  
 2 whom the taxpayer is allowed a deduction  
 3 under section 151 for the taxable year.

4 “(iv) An individual who would be de-  
 5 scribed in clause (iii) for the taxable year  
 6 if section 151(c)(1)(A) were applied by  
 7 substituting for the exemption amount an  
 8 amount equal to the sum of the exemption  
 9 amount, the standard deduction under sec-  
 10 tion 63(c)(2)(C), and any additional stand-  
 11 ard deduction under section 63(c)(3) which  
 12 would be applicable to the individual if  
 13 clause (iii) applied.

14 “(v) An individual who would be de-  
 15 scribed in clause (iii) for the taxable year  
 16 if—

17 “(I) the requirements of clause  
 18 (iv) are met with respect to the indi-  
 19 vidual, and

20 “(II) the requirements of sub-  
 21 paragraph (B) are met with respect to  
 22 the individual in lieu of the support  
 23 test of section 152(a).

24 “(B) RESIDENCY TEST.—The require-  
 25 ments of this subparagraph are met if an indi-

vidual has as his principal place of abode the  
home of the taxpayer and—

“(i) in the case of an individual who  
is an ancestor or descendant of the tax-  
payer or the taxpayer’s spouse, is a mem-  
ber of the taxpayer’s household for over  
half the taxable year, or

“(ii) in the case of any other indi-  
vidual, is a member of the taxpayer’s  
household for the entire taxable year.

“(C) SPECIAL RULES WHERE MORE THAN  
1 ELIGIBLE CAREGIVER.—

“(i) IN GENERAL.—If more than 1 in-  
dividual is an eligible caregiver with re-  
spect to the same applicable individual for  
taxable years ending with or within the  
same calendar year, a taxpayer shall be  
treated as the eligible caregiver if each  
such individual (other than the taxpayer)  
files a written declaration (in such form  
and manner as the Secretary may pre-  
scribe) that such individual will not claim  
such applicable individual for the credit  
under this section.

“(ii) NO AGREEMENT.—If each individual required under clause (i) to file a written declaration under clause (i) does not do so, the individual with the highest modified adjusted gross income (as defined in section 32(c)(5)) shall be treated as the eligible caregiver.

“(iii) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of married individuals filing separately, the determination under this subparagraph as to whether the husband or wife is the eligible caregiver shall be made under the rules of clause (ii) (whether or not one of them has filed a written declaration under clause (i)).”.

(c) IDENTIFICATION REQUIREMENTS.—

(1) IN GENERAL.—Section 24(e) is amended by adding at the end the following new sentence: “No credit shall be allowed under this section to a taxpayer with respect to any applicable individual unless the taxpayer includes the name and taxpayer identification number of such individual, and the identification number of the physician certifying such individual, on the return of tax for the taxable year.”.

1           (2) ASSESSMENT.—Section 6213(g)(2)(I) is  
2       amended—

3           (A) by inserting “or physician identifica-  
4       tion” after “correct TIN”, and

5           (B) by striking “child” and inserting  
6       “family care”.

7       (d) EFFECTIVE DATE.—The amendments made by  
8       this section shall apply to taxable years beginning after  
9       December 31, 2001.

## 10           **TITLE VI—TAX RELIEF FOR** 11           **WORKING FAMILIES**

### 12       **SEC. 601. INCREASED EARNED INCOME TAX CREDIT FOR 2** 13           **OR MORE QUALIFYING CHILDREN.**

14       (a) IN GENERAL.—The table in section 32(b)(1)(A)  
15       (relating to percentages) is amended—

16           (1) in the second item—

17           (A) by striking “or more”, and

18           (B) by striking “21.06” and inserting  
19       “19.06”, and

20           (2) by inserting after the second item the fol-  
21       lowing new item:

“3 or more qualifying children .....	45	19.06”
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22       (b) EFFECTIVE DATE.—The amendments made by  
23       this section shall apply to taxable years beginning after  
24       December 31, 2001.



1 **SEC. 602. SIMPLIFICATION OF DEFINITION OF EARNED IN-**  
 2 **COME.**

3 (a) IN GENERAL.—Section 32(c)(2)(A)(i) (defining  
 4 earned income) is amended by inserting “, but only if such  
 5 amounts are includible in gross income for the taxable  
 6 year” after “other employee compensation”.

7 (b) CONFORMING AMENDMENT.—Section  
 8 32(c)(2)(B) is amended by striking “and” at the end of  
 9 clause (iv), by striking the period at the end of clause (v)  
 10 and inserting “, and”, and by adding at the end the fol-  
 11 lowing new clause:

12 “(vi) the requirement under subpara-  
 13 graph (A)(i) that an amount be includible  
 14 in gross income shall not apply if such  
 15 amount is exempt from tax under section  
 16 7873 or is derived directly from restricted  
 17 and allotted land under the Act of Feb-  
 18 ruary 8, 1887 (commonly known as the In-  
 19 dian General Allotment Act) (25 U.S.C.  
 20 331 et seq.) or from land held under Acts  
 21 or treaties containing an exception provi-  
 22 sion similar to the Indian General Allot-  
 23 ment Act.”.

24 (c) EFFECTIVE DATE.—The amendment made by  
 25 this section shall apply to amounts received in taxable  
 26 years beginning after December 31, 2001.

1 **SEC. 603. SIMPLIFICATION OF DEFINITION OF CHILD DE-**  
 2 **PENDENT.**

3 (a) REMOVAL OF SUPPORT TEST FOR CERTAIN INDIVIDUALS.—Section 152(a) (relating to definition of de-  
 4 pendent) is amended to read as follows:

6 “(a) GENERAL DEFINITION.—For purposes of this  
 7 subtitle—

8 “(1) DEPENDENT.—The term ‘dependent’  
 9 means—

10 “(A) any individual described in paragraph  
 11 (2) over half of whose support, for the calendar  
 12 year in which the taxable year of the taxpayer  
 13 begins, was received from the taxpayer (or is  
 14 treated under subsection (c) as received from  
 15 the taxpayer), or

16 “(B) any individual described in subsection  
 17 (f).

18 “(2) INDIVIDUALS.—An individual is described  
 19 in this paragraph if such individual is—

20 “(A) a brother, sister, stepbrother, or step-  
 21 sister of the taxpayer,

22 “(B) the father or mother of the taxpayer,  
 23 or an ancestor of either,

24 “(C) a stepfather or stepmother of the tax-  
 25 payer,

1           “(D) a son or daughter of a brother or sis-  
2           ter of the taxpayer,

3           “(E) a brother or sister of the father or  
4           mother of the taxpayer,

5           “(F) a son-in-law, daughter-in-law, father-  
6           in-law, mother-in-law, brother-in-law, or sister-  
7           in-law of the taxpayer, or

8           “(G) an individual (other than an indi-  
9           vidual who at any time during the taxable year  
10          was the spouse, determined without regard to  
11          section 7703, of the taxpayer) who, for the tax-  
12          able year of the taxpayer, has as their principal  
13          place of abode the home of the taxpayer and is  
14          a member of the taxpayer’s household.”.

15          (b) OTHER MODIFICATIONS.—Section 152 is amend-  
16          ed by adding at the end the following new subsection:

17          “(f) SUBSECTION (f) DEPENDENTS.—

18                 “(1) IN GENERAL.—An individual is described  
19                 in this subsection for the taxable year if such  
20                 individual—

21                         “(A) bears a relationship to the taxpayer  
22                         described in paragraph (2),

23                         “(B) except in the case of an eligible foster  
24                         child or as provided in subsection (e), has the  
25                         same principal place of abode as the taxpayer

1 for more than one-half of such taxable year,  
2 and

3 “(C)(i) has not attained the age of 19 at  
4 the close of the calendar year in which the tax-  
5 able year begins, or

6 “(ii) is a student (within the meaning of  
7 section 151(c)(4)) who has not attained the age  
8 of 24 at the close of such calendar year.

9 “(2) RELATIONSHIP TEST.—An individual bears  
10 a relationship to the taxpayer described in this para-  
11 graph if such individual is—

12 “(A) a son or daughter of the taxpayer, or  
13 a descendant of either, or

14 “(B) a stepson or stepdaughter of the tax-  
15 payer.

16 “(3) SPECIAL RULES.—

17 “(A) 2 OR MORE CLAIMING DEPENDENT.—  
18 Except as provided in subparagraph (B), if an  
19 individual may be claimed as a dependent by 2  
20 or more taxpayers (but for this subparagraph)  
21 for a taxable year beginning in the same cal-  
22 endar year, only the taxpayer with the highest  
23 adjusted gross income for such taxable year  
24 shall be allowed the deduction with respect to  
25 such individual.

“(B) RELEASE OF CLAIM TO EXEMPTION.—Subparagraph (A) shall not apply with respect to an individual if—

“(i) the taxpayer with the highest adjusted gross income under subparagraph (A), for any calendar year signs a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such taxpayer will not claim such individual as a dependent for any taxable year beginning in such calendar year,

“(ii) the other taxpayer provides over half of such individual’s support for the calendar year in which the taxable year of such other taxpayer begins, and

“(iii) such other taxpayer attaches such written declaration to such taxpayer’s return for the taxable year beginning during such calendar year.”.

(c) RULES RELATING TO FOSTER CHILD.—Section 152(b)(2) (relating to rules relating to general definition) is amended by striking “a foster child” and all that follows through “individual)” and inserting “an eligible foster child (as defined in section 32(c)(3)(B)(iii)) of an individual”.

1 (d) EXEMPTION FROM GROSS INCOME TEST.—Sec-  
 2 tion 151(c)(3) (relating to definition of child) is amended  
 3 by striking “or stepdaughter” and inserting “step-  
 4 daughter, or a descendant of such individual”.

5 (e) WAIVER OF DEDUCTION FOR DIVORCED PAR-  
 6 ENTS.—

7 (1) IN GENERAL.—So much of section 152(e)  
 8 as precedes paragraph (4) (relating to support test  
 9 in case of child of divorced parents, etc.) is amended  
 10 to read as follows:

11 “(e) SPECIAL RULES FOR CHILD OF DIVORCED PAR-  
 12 ENTS.—

13 “(1) RELEASE OF CLAIM TO EXEMPTION.—In  
 14 the case of a child (as defined in section 151(c)(3))  
 15 of parents—

16 “(A) who are divorced or legally separated  
 17 under a decree of divorce or separate mainte-  
 18 nance,

19 “(B) who are separated under a written  
 20 separation agreement, or

21 “(C) who live apart at all times during the  
 22 last 6 months of the calendar year,

23 the custodial parent who is entitled to the deduction  
 24 under section 151 for a taxable year with respect to

1       such child may release such deduction to the non-  
2       custodial parent.

3           “(2) PROCEDURE.—The noncustodial parent  
4       may claim a child described in paragraph (1) as a  
5       dependent for the taxable year if—

6           “(A) the custodial parent signs a written  
7       declaration (in such manner and form as the  
8       Secretary may by regulations prescribe) that  
9       such custodial parent will not claim such child  
10      as a dependent for any taxable year beginning  
11      in such calendar year,

12          “(B) the custodial parent and the non-  
13      custodial parent provide over half of such  
14      child’s support for the calendar year in which  
15      the taxable years of such parents begin, and

16          “(C) the noncustodial parent attaches such  
17      written declaration to such noncustodial par-  
18      ent’s return for the taxable year beginning dur-  
19      ing such calendar year.

20          “(3) DEFINITIONS.—For purposes of this  
21      subsection—

22          “(A) CUSTODIAL PARENT.—The term ‘cus-  
23      todial parent’ means, with regard to an indi-  
24      vidual, a parent who has custody of such indi-

1           vidual for a greater portion of the calendar year  
2           than the noncustodial parent.

3           “(B) NONCUSTODIAL PARENT.—The term  
4           ‘noncustodial parent’ means the parent who is  
5           not the custodial parent.”.

6           (2)       PRE-1985       INSTRUMENTS.—Section  
7           152(e)(4)(A) is amended by striking “A child” and  
8           all that follows through “noncustodial parent” and  
9           inserting “A noncustodial parent described in para-  
10          graph (1) shall be entitled to the deduction under  
11          section 151 for a taxable year with respect to a child  
12          if”.

13          (f) CONFORMING AMENDMENTS.—

14               (1) Section 1(g)(5)(A) is amended by inserting  
15               “as in effect on the day before the date of the enact-  
16               ment of the Working Family Tax Relief Act of  
17               2001” after “152(e)”.

18               (2) Section 2(b)(1)(A)(i) is amended by striking  
19               “paragraph (2) or (4) of”.

20               (3) Section 2(b)(3)(B)(i) is amended by striking  
21               “paragraph (9)” and inserting “paragraph (2)(G)”.

22               (4) Section 21(e)(5)(A) is amended by striking  
23               “paragraph (2) or (4) of”.

24               (5) Section 21(e)(5) is amended in the matter  
25               following subclause (B) by inserting “as in effect on



1 the day before the date of the enactment of the  
 2 Working Family Tax Relief Act of 2001” after  
 3 “152(e)(1)”.

4 (6) Section 32(c)(1)(G) is amended by striking  
 5 “(3)(D).” and inserting “(1)(C). An individual  
 6 whose qualifying child or qualifying children are not  
 7 taken into account under subsection (b) solely by  
 8 reason of paragraph (3)(D) shall be treated as an el-  
 9 igible individual if such individual otherwise meets  
 10 the requirements of subparagraph (A)(ii).”.

11 (7) Section 32(c)(3)(B)(ii) is amended by strik-  
 12 ing “paragraph (2) or (4) of”.

13 (8) Section 51(i)(1)(C) is amended by striking  
 14 “152(a)(9)” and inserting “152(a)(2)(G)”.

15 (9) Section 152(b) is amended by striking  
 16 “specified in subsection (a)” and inserting “specified  
 17 in subsection (a)(2) or (f)(2)”.

18 (10) Section 152(c) is amended by striking  
 19 “(a)” and inserting “(a)(1)”.

20 (11) Section 7703(b)(1) is amended by striking  
 21 “paragraph (2) or (4) of”.

22 (12) The following provisions of are each  
 23 amended by striking “paragraphs (1) through (8) of  
 24 section 152(a)” and inserting “subparagraphs (A)

1 through (F) of subsection (a)(2) or subsection (f)(2)  
 2 of section 152”:

3 (A) Section 170(g)(3).

4 (B) Subparagraphs (A) and (B) of section  
 5 51(i)(1).

6 (C) The second sentence of section  
 7 213(d)(11).

8 (D) Section 529(e)(2)(B).

9 (E) Section 7702B(f)(2)(C)(iii).

10 (g) EFFECTIVE DATE.—The amendments made by  
 11 this section shall apply to taxable years beginning after  
 12 December 31, 2001.

13 **SEC. 604. OTHER MODIFICATIONS TO EARNED INCOME TAX**  
 14 **CREDIT.**

15 (a) MODIFICATION OF JOINT RETURN REQUIRE-  
 16 MENT.—Subsection (d) of section 32 is amended to read  
 17 as follows:

18 “(d) MARRIED INDIVIDUALS.—

19 “(1) IN GENERAL.—If the taxpayer is married  
 20 at the close of the taxable year, the credit shall be  
 21 allowed under subsection (a) only if the taxpayer  
 22 and his spouse file a joint return for the taxable  
 23 year.

24 “(2) MARITAL STATUS.—For purposes of para-  
 25 graph (1), an individual legally separated from his

1 spouse under a decree of divorce or of separate  
 2 maintenance shall not be considered as married.

3 “(3) CERTAIN MARRIED INDIVIDUALS LIVING  
 4 APART.—For purposes of paragraph (1), if—

5 “(A) an individual —

6 “(i) is married and files a separate re-  
 7 turn, and

8 “(ii) has a qualifying child who is a  
 9 son, daughter, stepson, or stepdaughter of  
 10 such individual, and

11 “(B) during the last 6 months of such tax-  
 12 able year, such individual and such individual’s  
 13 spouse do not have the same principal place of  
 14 abode,

15 such individual shall not be considered as married.”.

16 (b) MODIFICATION OF RULE WHERE THERE ARE 2  
 17 OR MORE ELIGIBLE INDIVIDUALS.—Subparagraph (C) of  
 18 section 32(c)(1) is amended to read as follows:

19 “(C) 2 OR MORE ELIGIBLE INDIVIDUALS.—

20 “(i) IN GENERAL.—Except as pro-  
 21 vided in clause (ii), if 2 or more individuals  
 22 would (but for this subparagraph and after  
 23 application of subparagraph (B)) be treat-  
 24 ed as eligible individuals with respect to  
 25 the same qualifying child for taxable years

1 beginning in the same calendar year, only  
2 the individual with the highest modified  
3 adjusted gross income for such taxable  
4 years shall be treated as an eligible indi-  
5 vidual with respect to such qualifying  
6 child.

7 “(ii) EXCEPTION FOR CERTAIN PAR-  
8 ENTS.—An otherwise eligible individual  
9 who is not treated under clause (i) as the  
10 only eligible individual with respect to any  
11 qualifying child shall be treated as an eligi-  
12 ble individual with respect to such child  
13 if—

14 “(I) such child is the son, daugh-  
15 ter, stepson, or stepdaughter of such  
16 individual,

17 “(II) such child is not taken into  
18 account under subsection (b) by any  
19 other individual, and

20 “(III) the limitation under sub-  
21 section (a)(2) for the individual who  
22 would (but for this clause) be treated  
23 under clause (i) as the only eligible in-  
24 dividual with respect to such child  
25 would be greater than zero (deter-

1                   mined as if such individual had 2  
 2                   qualifying children).”.

3           (c) EXPANSION OF MATHEMATICAL ERROR AUTHOR-  
 4 ITY.—Paragraph (2) of section 6213(g) is amended by  
 5 striking “and” at the end of subparagraph (K), by striking  
 6 the period at the end of subparagraph (L) and inserting  
 7 “, and”, and by inserting after subparagraph (L) the fol-  
 8 lowing new subparagraph:

9                   “(M) the entry on the return claiming the  
 10                   credit under section 32 with respect to a child  
 11                   if, according to the Federal Case Registry of  
 12                   Child Support Orders established under section  
 13                   453(h) of the Social Security Act, the taxpayer  
 14                   is a noncustodial parent of such child.”.

15           (d) EFFECTIVE DATE.—The amendments made by  
 16 this section shall apply to taxable years beginning after  
 17 December 31, 2001.

## 18           **TITLE VII—TAX RELIEF FOR** 19           **SELF-EMPLOYED INDIVIDUALS**

### 20           **SEC. 701. DEDUCTION FOR HEALTH INSURANCE COSTS OF** 21           **SELF-EMPLOYED INDIVIDUALS INCREASED.**

22           (a) IN GENERAL.—Section 162(l)(1) (relating to spe-  
 23 cial rules for health insurance costs of self-employed indi-  
 24 viduals) is amended to read as follows:

1           “(1) ALLOWANCE OF DEDUCTION.—In the case  
2           of an individual who is an employee within the  
3           meaning of section 401(c)(1), there shall be allowed  
4           as a deduction under this section an amount equal  
5           to the amount paid during the taxable year for in-  
6           surance which constitutes medical care for the tax-  
7           payer, the taxpayer’s spouse, and dependents.”.

8           (b) CLARIFICATION OF LIMITATIONS ON OTHER COV-  
9           ERAGE.—The first sentence of section 162(l)(2)(B) is  
10          amended to read as follows: “Paragraph (1) shall not  
11          apply to any taxpayer for any calendar month for which  
12          the taxpayer participates in any subsidized health plan  
13          maintained by any employer (other than an employer de-  
14          scribed in section 401(c)(4)) of the taxpayer or the spouse  
15          of the taxpayer.”.

16          (c) EFFECTIVE DATE.—The amendments made by  
17          this section shall apply to taxable years beginning after  
18          December 31, 2000.

**1 TITLE VIII—TAX RELIEF FOR EX-**  
**2 PANDING PENSION AVAIL-**  
**3 ABILITY**

**4 SEC. 801. NONREFUNDABLE CREDIT TO CERTAIN INDIVID-**  
**5 UALS FOR ELECTIVE DEFERRALS AND IRA**  
**6 CONTRIBUTIONS.**

**7** (a) IN GENERAL.—Subpart A of part IV of sub-  
**8** chapter A of chapter 1 (relating to nonrefundable personal  
**9** credits), as amended by section 302(a), is amended by in-  
**10** serting after section 25B the following new section:

**11 “SEC. 25C. ELECTIVE DEFERRALS AND IRA CONTRIBU-**  
**12 TIONS BY CERTAIN INDIVIDUALS.**

**13** “(a) ALLOWANCE OF CREDIT.—In the case of an eli-  
**14** gible individual, there shall be allowed as a credit against  
**15** the tax imposed by this subtitle for the taxable year an  
**16** amount equal to the applicable percentage of so much of  
**17** the qualified retirement savings contributions of the eligi-  
**18** ble individual for the taxable year as do not exceed \$2,000.

**19** “(b) APPLICABLE PERCENTAGE.—For purposes of  
**20** this section, the applicable percentage is the percentage  
**21** determined in accordance with the following table:

Adjusted Gross Income						Applica- ble per- centage
Joint return		Head of a household		All other cases		
Over	Not over	Over	Not over	Over	Not over	
\$0	\$35,000	\$0	\$26,250	\$0	\$17,500	50
35,000	40,000	26,250	30,000	17,500	20,000	40
40,000	45,000	30,000	33,750	20,000	22,500	30

Adjusted Gross Income						Applica- ble per- centage
Joint return		Head of a household		All other cases		
Over	Not over	Over	Not over	Over	Not over	
45,000	50,000	33,750	37,500	22,500	25,000	

1       “(c) ELIGIBLE INDIVIDUAL.—For purposes of this  
2 section—

3               “(1) IN GENERAL.—The term ‘eligible indi-  
4 vidual’ means any individual if such individual has  
5 attained the age of 18 as of the close of the taxable  
6 year.

7               “(2) DEPENDENTS AND FULL-TIME STUDENTS  
8 NOT ELIGIBLE.—The term ‘eligible individual’ shall  
9 not include—

10               “(A) any individual with respect to whom  
11 a deduction under section 151 is allowed to an-  
12 other taxpayer for a taxable year beginning in  
13 the calendar year in which such individual’s  
14 taxable year begins, and

15               “(B) any individual who is a student (as  
16 defined in section 151(c)(4)).

17       “(d) QUALIFIED RETIREMENT SAVINGS CONTRIBU-  
18 TIONS.—For purposes of this section—

19               “(1) IN GENERAL.—The term ‘qualified retire-  
20 ment savings contributions’ means, with respect to  
21 any taxable year, the sum of—



“(A) the amount of the qualified retirement contributions (as defined in section 219(e)) made by the eligible individual,

“(B) the amount of—

“(i) any elective deferrals (as defined in section 402(g)(3)) of such individual, and

“(ii) any elective deferral of compensation by such individual under an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

“(C) the amount of voluntary employee contributions by such individual to any qualified retirement plan (as defined in section 4974(c)).

“(2) REDUCTION FOR CERTAIN DISTRIBUTIONS.—

“(A) IN GENERAL.—The qualified retirement savings contributions determined under paragraph (1) shall be reduced (but not below zero) by the sum of—

“(i) any distribution from a qualified retirement plan (as defined in section 4974(c)), or from an eligible deferred com-

1           pensation plan (as defined in section  
2           457(b)), received by the individual during  
3           the testing period which is includible in  
4           gross income, and

5           “(ii) any distribution from a Roth  
6           IRA received by the individual during the  
7           testing period which is not a qualified roll-  
8           over contribution (as defined in section  
9           408A(e)) to a Roth IRA.

10          “(B) TESTING PERIOD.—For purposes of  
11          subparagraph (A), the testing period, with re-  
12          spect to a taxable year, is the period which  
13          includes—

14               “(i) such taxable year,

15               “(ii) the 2 preceding taxable years,

16               and

17               “(iii) the period after such taxable  
18               year and before the due date (including ex-  
19               tensions) for filing the return of tax for  
20               such taxable year.

21          “(C) EXCEPTED DISTRIBUTIONS.—There  
22          shall not be taken into account under subpara-  
23          graph (A)—

1 “(i) any distribution referred to in  
 2 section 72(p), 401(k)(8), 401(m)(6),  
 3 402(g)(2), 404(k), or 408(d)(4), and

4 “(ii) any distribution to which section  
 5 408A(d)(3) applies.

6 “(D) TREATMENT OF DISTRIBUTIONS RE-  
 7 CEIVED BY SPOUSE OF INDIVIDUAL.—For pur-  
 8 poses of determining distributions received by  
 9 an individual under subparagraph (A) for any  
 10 taxable year, any distribution received by the  
 11 spouse of such individual shall be treated as re-  
 12 ceived by such individual if such individual and  
 13 spouse file a joint return for such taxable year  
 14 and for the taxable year during which the  
 15 spouse receives the distribution.

16 “(e) ADJUSTED GROSS INCOME.—For purposes of  
 17 this section, adjusted gross income shall be determined  
 18 without regard to sections 911, 931, and 933.

19 “(f) INVESTMENT IN THE CONTRACT.—Notwith-  
 20 standing any other provision of law, a qualified retirement  
 21 savings contribution shall not fail to be included in deter-  
 22 mining the investment in the contract for purposes of sec-  
 23 tion 72 by reason of the credit under this section.”.

24 (b) CREDIT ALLOWED AGAINST REGULAR TAX AND  
 25 ALTERNATIVE MINIMUM TAX.—

1           (1) IN GENERAL.—Subsection (a) of section 26  
 2           is amended by inserting “(other than the credit al-  
 3           lowed by section 25C)” after “credits allowed by this  
 4           subpart”.

5           (2) CONFORMING AMENDMENT.—Section 25C,  
 6           as added by subsection (a), is amended by inserting  
 7           after subsection (f) the following new subsection:

8           “(g) LIMITATION BASED ON AMOUNT OF TAX.—The  
 9           aggregate credit allowed by this section for the taxable  
 10          year shall not exceed the sum of—

11           “(1) the taxpayer’s regular tax liability for the  
 12          taxable year reduced by the sum of the credits al-  
 13          lowed by sections 21, 22, 23, 24, 25, 25A, and 25B,  
 14          plus

15           “(2) the tax imposed by section 55 for such  
 16          taxable year.”.

17          (c) ANNUAL REPORT.—The Comptroller General of  
 18          the United States shall submit a report annually to the  
 19          Committee on Ways and Means of the House of Rep-  
 20          resentatives and the Committee on Finance of the Senate  
 21          regarding the number of taxpayers receiving the credit al-  
 22          lowed under section 25C of the Internal Revenue Code of  
 23          1986, as added by subsection (a).

24          (d) CONFORMING AMENDMENT.—The table of sec-  
 25          tions for subpart A of part IV of subchapter A of chapter

1 1, as amended by section 302(b), is amended by inserting  
 2 after the item relating to section 25B the following new  
 3 item:

“Sec. 25C. Elective deferrals and IRA contributions by certain individuals.”.

4 (e) EFFECTIVE DATES.—The amendments made by  
 5 this section shall apply to taxable years beginning after  
 6 December 31, 2001.

7 **SEC. 802. CREDIT FOR QUALIFIED PENSION PLAN CON-**  
 8 **TRIBUTIONS OF SMALL EMPLOYERS.**

9 (a) IN GENERAL.—Subpart D of part IV of sub-  
 10 chapter A of chapter 1 (relating to business related cred-  
 11 its), as amended by section 411(a), is amended by adding  
 12 at the end the following new section:

13 **“SEC. 45F. SMALL EMPLOYER PENSION PLAN CONTRIBU-**  
 14 **TIONS.**

15 “(a) GENERAL RULE.—For purposes of section 38,  
 16 in the case of an eligible employer, the small employer pen-  
 17 sion plan contribution credit determined under this section  
 18 for any taxable year is an amount equal to 50 percent  
 19 of the amount which would (but for subsection (f)(1)) be  
 20 allowed as a deduction under section 404 for such taxable  
 21 year for qualified employer contributions made to any  
 22 qualified retirement plan on behalf of any employee who  
 23 is not a highly compensated employee.

1       “(b) CREDIT LIMITED TO 3 YEARS.—The credit al-  
2 lowable by this section shall be allowed only with respect  
3 to the period of 3 taxable years beginning with the first  
4 taxable year for which a credit is allowable with respect  
5 to a plan under this section.

6       “(c) QUALIFIED EMPLOYER CONTRIBUTION.—For  
7 purposes of this section—

8               “(1) DEFINED CONTRIBUTION PLANS.—In the  
9 case of a defined contribution plan, the term ‘quali-  
10 fied employer contribution’ means the amount of  
11 nonelective and matching contributions to the plan  
12 made by the employer on behalf of any employee  
13 who is not a highly compensated employee to the ex-  
14 tent such amount does not exceed 3 percent of such  
15 employee’s compensation from the employer for the  
16 year.

17               “(2) DEFINED BENEFIT PLANS.—In the case of  
18 a defined benefit plan, the term ‘qualified employer  
19 contribution’ means the amount of employer con-  
20 tributions to the plan made on behalf of any em-  
21 ployee who is not a highly compensated employee to  
22 the extent that the accrued benefit of such employee  
23 derived from employer contributions for the year  
24 does not exceed the equivalent (as determined under  
25 regulations prescribed by the Secretary and without

1 regard to contributions and benefits under the Social  
 2 Security Act) of 3 percent of such employee's com-  
 3 pensation from the employer for the year.

4 “(d) QUALIFIED RETIREMENT PLAN.—

5 “(1) IN GENERAL.—The term ‘qualified retire-  
 6 ment plan’ means any plan described in section  
 7 401(a) which includes a trust exempt from tax  
 8 under section 501(a) if the plan meets—

9 “(A) the contribution requirements of  
 10 paragraph (2),

11 “(B) the vesting requirements of para-  
 12 graph (3), and

13 “(C) the distributions requirements of  
 14 paragraph (4).

15 “(2) CONTRIBUTION REQUIREMENTS.—

16 “(A) IN GENERAL.—The requirements of  
 17 this paragraph are met if, under the plan—

18 “(i) the employer is required to make  
 19 nonelective contributions of at least 1 per-  
 20 cent of compensation (or the equivalent  
 21 thereof in the case of a defined benefit  
 22 plan) for each employee who is not a high-  
 23 ly compensated employee who is eligible to  
 24 participate in the plan, and

1                   “(ii) allocations of nonelective em-  
2                   ployer contributions are either in equal dol-  
3                   lar amounts for all employees covered by  
4                   the plan or bear a uniform relationship to  
5                   the total compensation, or the basic or reg-  
6                   ular rate of compensation, of the employ-  
7                   ees covered by the plan.

8                   “(B) COMPENSATION LIMITATION.—The  
9                   compensation taken into account under sub-  
10                  paragraph (A) for any year shall not exceed the  
11                  limitation in effect for such year under section  
12                  401(a)(17).

13                  “(3) VESTING REQUIREMENTS.—The require-  
14                  ments of this paragraph are met if the plan satisfies  
15                  the requirements of subparagraph (A) or (B).

16                  “(A) 3-YEAR VESTING.—A plan satisfies  
17                  the requirements of this subparagraph if an em-  
18                  ployee who has completed at least 3 years of  
19                  service has a nonforfeitable right to 100 percent  
20                  of the employee’s accrued benefit derived from  
21                  employer contributions.

22                  “(B) 5-YEAR GRADED VESTING.—A plan  
23                  satisfies the requirements of this subparagraph  
24                  if an employee has a nonforfeitable right to a  
25                  percentage of the employee’s accrued benefit de-



1           rived from employer contributions determined  
2           under the following table:

<b>“Years of service:</b>	<b>The nonforfeitable percentage is:</b>
1 .....	20
2 .....	40
3 .....	60
4 .....	80
5 .....	100.

3           “(4) DISTRIBUTION REQUIREMENTS.—In the  
4           case of a profit-sharing or stock bonus plan, the re-  
5           quirements of this paragraph are met if, under the  
6           plan, qualified employer contributions are distribut-  
7           able only as provided in section 401(k)(2)(B).

8           “(e) OTHER DEFINITIONS.—For purposes of this  
9           section—

10           “(1) ELIGIBLE EMPLOYER.—

11           “(A) IN GENERAL.—The term ‘eligible em-  
12           ployer’ means, with respect to any year, an em-  
13           ployer which has no more than 50 employees  
14           who received at least \$5,000 of compensation  
15           from the employer for the preceding year.

16           “(B) REQUIREMENT FOR NEW QUALIFIED  
17           EMPLOYER PLANS.—Such term shall not in-  
18           clude an employer if, during the 3-taxable year  
19           period immediately preceding the 1st taxable  
20           year for which the credit under this section is  
21           otherwise allowable for a qualified employer  
22           plan of the employer, the employer or any mem-

1           ber of any controlled group including the em-  
 2           ployer (or any predecessor of either) established  
 3           or maintained a qualified employer plan with  
 4           respect to which contributions were made, or  
 5           benefits were accrued, for substantially the  
 6           same employees as are in the qualified employer  
 7           plan.

8           “(2) HIGHLY COMPENSATED EMPLOYEE.—The  
 9           term ‘highly compensated employee’ has the mean-  
 10          ing given such term by section 414(q) (determined  
 11          without regard to section 414(q)(1)(B)(ii)).

12          “(f) SPECIAL RULES.—

13           “(1) DISALLOWANCE OF DEDUCTION.—No de-  
 14          duction shall be allowed for that portion of the quali-  
 15          fied employer contributions paid or incurred for the  
 16          taxable year which is equal to the credit determined  
 17          under subsection (a).

18           “(2) ELECTION NOT TO CLAIM CREDIT.—This  
 19          section shall not apply to a taxpayer for any taxable  
 20          year if such taxpayer elects to have this section not  
 21          apply for such taxable year.

22           “(3) AGGREGATION RULES.—All persons treat-  
 23          ed as a single employer under subsection (a) or (b)  
 24          of section 52, or subsection (n) or (o) of section 414,

1       shall be treated as one person. All eligible employer  
2       plans shall be treated as 1 eligible employer plan.

3       “(g) RECAPTURE OF CREDIT ON FORFEITED CON-  
4       TRIBUTIONS.—

5               “(1) IN GENERAL.—Except as provided in para-  
6       graph (2), if any accrued benefit which is forfeitable  
7       by reason of subsection (d)(3) is forfeited, the em-  
8       ployer’s tax imposed by this chapter for the taxable  
9       year in which the forfeiture occurs shall be increased  
10      by 35 percent of the employer contributions from  
11      which such benefit is derived to the extent such con-  
12      tributions were taken into account in determining  
13      the credit under this section.

14              “(2) REALLOCATED CONTRIBUTIONS.—Para-  
15      graph (1) shall not apply to any contribution which  
16      is reallocated by the employer under the plan to em-  
17      ployees who are not highly compensated employees.”.

18      (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-  
19      NESS CREDIT.—Section 38(b) (defining current year busi-  
20      ness credit), as amended by section 411(b)(1), is amended  
21      by striking “plus” at the end of paragraph (13), by strik-  
22      ing the period at the end of paragraph (14) and inserting  
23      “, plus”, and by adding at the end the following new para-  
24      graph:

1 “(15) in the case of an eligible employer (as de-  
 2 fined in section 45F(e)), the small employer pension  
 3 plan contribution credit determined under section  
 4 45F(a).”.

5 (c) CONFORMING AMENDMENTS.—

6 (1) Section 39(d), as amended by section  
 7 411(b)(2), is amended by adding at the end the fol-  
 8 lowing new paragraph:

9 “(11) NO CARRYBACK OF SMALL EMPLOYER  
 10 PENSION PLAN CONTRIBUTION CREDIT BEFORE JAN-  
 11 UARY 1, 2002.—No portion of the unused business  
 12 credit for any taxable year which is attributable to  
 13 the small employer pension plan contribution credit  
 14 determined under section 45F may be carried back  
 15 to a taxable year beginning before January 1,  
 16 2002.”.

17 (2) Subsection (c) of section 196, as amended  
 18 by section 411(b)(3), is amended by striking “and”  
 19 at the end of paragraph (9), by striking the period  
 20 at the end of paragraph (10) and inserting “, and”,  
 21 and by adding at the end the following new para-  
 22 graph:

23 “(11) the small employer pension plan contribu-  
 24 tion credit determined under section 45F(a).”.

1           (3) The table of sections for subpart D of part  
 2           IV of subchapter A of chapter 1, as amended by sec-  
 3           tion 411(b)(4), is amended by adding at the end the  
 4           following new item:

          “Sec. 45F. Small employer pension plan contributions.”.

5           (d) EFFECTIVE DATE.—The amendments made by  
 6           this section shall apply to contributions paid or incurred  
 7           in taxable years beginning after December 31, 2001.

8   **SEC. 803. CREDIT FOR PENSION PLAN STARTUP COSTS OF**  
 9           **SMALL EMPLOYERS.**

10          (a) IN GENERAL.—Subpart D of part IV of sub-  
 11          chapter A of chapter 1 (relating to business related cred-  
 12          its), as amended by section 802(a), is amended by adding  
 13          at the end the following new section:

14   **“SEC. 45G. SMALL EMPLOYER PENSION PLAN STARTUP**  
 15           **COSTS.**

16          “(a) GENERAL RULE.—For purposes of section 38,  
 17          in the case of an eligible employer, the small employer pen-  
 18          sion plan startup cost credit determined under this section  
 19          for any taxable year is an amount equal to 50 percent  
 20          of the qualified startup costs paid or incurred by the tax-  
 21          payer during the taxable year.

22          “(b) DOLLAR LIMITATION.—The amount of the cred-  
 23          it determined under this section for any taxable year shall  
 24          not exceed—

1           “(1) \$500 for the first credit year and each of  
2           the 2 taxable years immediately following the first  
3           credit year, and

4           “(2) zero for any other taxable year.

5           “(c) ELIGIBLE EMPLOYER.—For purposes of this  
6 section—

7           “(1) IN GENERAL.—The term ‘eligible em-  
8           ployer’ has the meaning given such term by section  
9           408(p)(2)(C)(i).

10           “(2) REQUIREMENT FOR NEW QUALIFIED EM-  
11           PLOYER PLANS.—Such term shall not include an  
12           employer if, during the 3-taxable year period imme-  
13           diately preceding the 1st taxable year for which the  
14           credit under this section is otherwise allowable for a  
15           qualified employer plan of the employer, the em-  
16           ployer or any member of any controlled group in-  
17           cluding the employer (or any predecessor of either)  
18           established or maintained a qualified employer plan  
19           with respect to which contributions were made, or  
20           benefits were accrued, for substantially the same em-  
21           ployees as are in the qualified employer plan.

22           “(d) OTHER DEFINITIONS.—For purposes of this  
23 section—

24           “(1) QUALIFIED STARTUP COSTS.—

1           “(A) IN GENERAL.—The term ‘qualified  
2 startup costs’ means any ordinary and nec-  
3 essary expenses of an eligible employer which  
4 are paid or incurred in connection with—

5                   “(i) the establishment or administra-  
6 tion of an eligible employer plan, or

7                   “(ii) the retirement-related education  
8 of employees with respect to such plan.

9           “(B) PLAN MUST HAVE AT LEAST 1 PAR-  
10 TICIPANT.—Such term shall not include any ex-  
11 pense in connection with a plan that does not  
12 have at least 1 employee eligible to participate  
13 who is not a highly compensated employee.

14           “(2) ELIGIBLE EMPLOYER PLAN.—The term  
15 ‘eligible employer plan’ means a qualified employer  
16 plan within the meaning of section 4972(d).

17           “(3) FIRST CREDIT YEAR.—The term ‘first  
18 credit year’ means—

19                   “(A) the taxable year which includes the  
20 date that the eligible employer plan to which  
21 such costs relate becomes effective, or

22                   “(B) at the election of the eligible em-  
23 ployer, the taxable year preceding the taxable  
24 year referred to in subparagraph (A).

1       “(e) SPECIAL RULES.—For purposes of this  
2 section—

3               “(1) AGGREGATION RULES.—All persons treat-  
4 ed as a single employer under subsection (a) or (b)  
5 of section 52, or subsection (n) or (o) of section 414,  
6 shall be treated as one person. All eligible employer  
7 plans shall be treated as 1 eligible employer plan.

8               “(2) DISALLOWANCE OF DEDUCTION.—No de-  
9 duction shall be allowed for that portion of the quali-  
10 fied startup costs paid or incurred for the taxable  
11 year which is equal to the credit determined under  
12 subsection (a).

13               “(3) ELECTION NOT TO CLAIM CREDIT.—This  
14 section shall not apply to a taxpayer for any taxable  
15 year if such taxpayer elects to have this section not  
16 apply for such taxable year.”.

17       (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-  
18 NESS CREDIT.—Section 38(b) (defining current year busi-  
19 ness credit), as amended by section 802(b), is amended  
20 by striking “plus” at the end of paragraph (14), by strik-  
21 ing the period at the end of paragraph (15) and inserting  
22 “, plus”, and by adding at the end the following new para-  
23 graph:

24               “(16) in the case of an eligible employer (as de-  
25 fined in section 45G(c)), the small employer pension



1 plan startup cost credit determined under section  
 2 45G(a).”.

3 (c) CONFORMING AMENDMENTS.—

4 (1) Section 39(d), as amended by section  
 5 802(c)(1), is amended by adding at the end the fol-  
 6 lowing new paragraph:

7 “(12) NO CARRYBACK OF SMALL EMPLOYER  
 8 PENSION PLAN STARTUP COST CREDIT BEFORE JAN-  
 9 UARY 1, 2002.—No portion of the unused business  
 10 credit for any taxable year which is attributable to  
 11 the small employer pension plan startup cost credit  
 12 determined under section 45G may be carried back  
 13 to a taxable year beginning before January 1,  
 14 2002.”.

15 (2) Subsection (c) of section 196, as amended  
 16 by section 802(c)(2), is amended by striking “and”  
 17 at the end of paragraph (10), by striking the period  
 18 at the end of paragraph (11) and inserting “, and”,  
 19 and by adding at the end the following new para-  
 20 graph:

21 “(12) the small employer pension plan startup  
 22 cost credit determined under section 45G(a).”.

23 (3) The table of sections for subpart D of part  
 24 IV of subchapter A of chapter 1, as amended by sec-

1       tion 802(c)(3), is amended by adding at the end the  
2       following new item:

“Sec. 45G. Small employer pension plan startup costs.”.

3       (d) **EFFECTIVE DATE.**—The amendments made by  
4 this section shall apply to costs paid or incurred in taxable  
5 years beginning after December 31, 2001, with respect to  
6 qualified employer plans established after such date.

## 7       **TITLE IX—TAX RELIEF FOR** 8       **ADOPTIVE PARENTS**

### 9       **SEC. 901. EXPANSION OF ADOPTION CREDIT.**

10       (a) **IN GENERAL.**—

11               (1) **ADOPTION CREDIT.**—Section 23(a)(1) (re-  
12       lating to allowance of credit) is amended to read as  
13       follows:

14               “(1) **IN GENERAL.**—In the case of an indi-  
15       vidual, there shall be allowed as a credit against the  
16       tax imposed by this chapter—

17                       “(A) in the case of an adoption of a child  
18               other than a child with special needs, the  
19               amount of the qualified adoption expenses paid  
20               or incurred by the taxpayer, and

21                       “(B) in the case of an adoption of a child  
22               with special needs, \$10,000.”.

23               (2) **ADOPTION ASSISTANCE PROGRAMS.**—Sec-  
24       tion 137(a) (relating to adoption assistance pro-  
25       grams) is amended to read as follows:

1       “(a) IN GENERAL.—Gross income of an employee  
 2 does not include amounts paid or expenses incurred by the  
 3 employer for adoption expenses in connection with the  
 4 adoption of a child by an employee if such amounts are  
 5 furnished pursuant to an adoption assistance program.  
 6 The amount of the exclusion shall be—

7               “(1) in the case of an adoption of a child other  
 8 than a child with special needs, the amount of the  
 9 qualified adoption expenses paid or incurred by the  
 10 taxpayer, and

11               “(2) in the case of an adoption of a child with  
 12 special needs, \$10,000.”.

13       (b) DOLLAR LIMITATIONS.—

14               (1) DOLLAR AMOUNT OF ALLOWED EX-  
 15 PENSES.—

16               (A) ADOPTION EXPENSES.—Section  
 17 23(b)(1) (relating to allowance of credit) is  
 18 amended—

19                       (i) by striking “\$5,000” and inserting  
 20 “\$10,000”,

21                       (ii) by striking “(\$6,000, in the case  
 22 of a child with special needs)”, and

23                       (iii) by striking “subsection (a)” and  
 24 inserting “subsection (a)(1)(A)”.

1 (B) ADOPTION ASSISTANCE PROGRAMS.—

2 Section 137(b)(1) (relating to dollar limitations  
3 for adoption assistance programs) is amended—

4 (i) by striking “\$5,000” and inserting  
5 “\$10,000”, and

6 (ii) by striking “(\$6,000, in the case  
7 of a child with special needs)”, and

8 (iii) by striking “subsection (a)” and  
9 inserting “subsection (a)(1)”.

10 (2) PHASE-OUT LIMITATION.—

11 (A) ADOPTION EXPENSES.—Clause (i) of  
12 section 23(b)(2)(A) (relating to income limita-  
13 tion) is amended by striking “\$75,000” and in-  
14 serting “\$150,000”.

15 (B) ADOPTION ASSISTANCE PROGRAMS.—  
16 Section 137(b)(2)(A) (relating to income limita-  
17 tion) is amended by striking “\$75,000” and in-  
18 serting “\$150,000”.

19 (c) YEAR CREDIT ALLOWED.—Section 23(a)(2) is  
20 amended by adding at the end the following new flush sen-  
21 tence:

22 “In the case of the adoption of a child with special  
23 needs, the credit allowed under paragraph (1) shall  
24 be allowed for the taxable year in which the adoption  
25 becomes final.”.

1 (d) REPEAL OF SUNSET PROVISIONS.—

2 (1) CHILDREN WITHOUT SPECIAL NEEDS.—

3 Paragraph (2) of section 23(d) (relating to definition  
4 of eligible child) is amended to read as follows:

5 “(2) ELIGIBLE CHILD.—The term ‘eligible  
6 child’ means any individual who—

7 “(A) has not attained age 18, or

8 “(B) is physically or mentally incapable of  
9 caring for himself.”.

10 (2) ADOPTION ASSISTANCE PROGRAMS.—Sec-  
11 tion 137 (relating to adoption assistance programs)  
12 is amended by striking subsection (f).

13 (e) ADJUSTMENT OF DOLLAR AND INCOME LIMITA-  
14 TIONS FOR INFLATION.—

15 (1) ADOPTION CREDIT.—Section 23 is amended  
16 by redesignating subsection (h) as subsection (i) and  
17 by inserting after subsection (g) the following new  
18 subsection:

19 “(h) ADJUSTMENTS FOR INFLATION.—In the case of  
20 a taxable year beginning after December 31, 2002, each  
21 of the dollar amounts in subsection (a)(1)(B) and para-  
22 graphs (1) and (2)(A)(i) of subsection (b) shall be in-  
23 creased by an amount equal to—

24 “(1) such dollar amount, multiplied by

1           “(2) the cost-of-living adjustment determined  
 2           under section 1(f)(3) for the calendar year in which  
 3           the taxable year begins, determined by substituting  
 4           ‘calendar year 2001’ for ‘calendar year 1992’ in sub-  
 5           paragraph (B) thereof.”.

6           (2) ADOPTION ASSISTANCE PROGRAMS.—Sec-  
 7           tion 137, as amended by subsection (d), is amended  
 8           by adding at the end the following new subsection:

9           “(f) ADJUSTMENTS FOR INFLATION.—In the case of  
 10          a taxable year beginning after December 31, 2002, each  
 11          of the dollar amounts in subsection (a)(2) and paragraphs  
 12          (1) and (2)(A) of subsection (b) shall be increased by an  
 13          amount equal to—

14                 “(1) such dollar amount, multiplied by

15                 “(2) the cost-of-living adjustment determined  
 16                 under section 1(f)(3) for the calendar year in which  
 17                 the taxable year begins, determined by substituting  
 18                 ‘calendar year 2001’ for ‘calendar year 1992’ in sub-  
 19                 paragraph (B) thereof.”.

20          (f) LIMITATION BASED ON AMOUNT OF TAX.—

21                 (1) IN GENERAL.—Subsection (c) of section 23  
 22                 is amended by striking “the limitation imposed” and  
 23                 all that follows through “1400C)” and inserting  
 24                 “the applicable tax limitation”.

1           (2) APPLICABLE TAX LIMITATION.—Subsection  
 2           (d) of section 23 is amended by adding at the end  
 3           the following new paragraph:

4           “(4) APPLICABLE TAX LIMITATION.—The term  
 5           ‘applicable tax limitation’ means the sum of—

6                   “(A) the taxpayer’s regular tax liability for  
 7                   the taxable year, reduced (but not below zero)  
 8                   by the sum of the credits allowed by sections  
 9                   21, 22, 24 (other than the amount of the in-  
 10                  crease under subsection (d) thereof), 25, and  
 11                  25A, and

12                   “(B) the tax imposed by section 55 for  
 13                  such taxable year.”.

14           (3) CONFORMING AMENDMENTS.—

15                   (A) Subsection (a) of section 26 (relating  
 16                   to limitation based on amount of tax) is amend-  
 17                   ed by inserting “(other than section 23)” after  
 18                   “allowed by this subpart”.

19                   (B) Paragraph (1) of section 53(b) (relat-  
 20                   ing to minimum tax credit) is amended by in-  
 21                   serting “reduced by the aggregate amount  
 22                   taken into account under section 23(d)(3)(B)  
 23                   for all such prior taxable years,” after “1986,”.

1       (g) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2001.

○